



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

“A.C. No. 12955 - SONNIE F. AGUSTIN-LAPLAP, complainant, versus ATTY. HERMINIA CADAVEDO-ENERO, respondent.

Complainant Sonnie F. Agustin-Laplap (complainant) files this disbarment case¹ against respondent Atty. Herminia Cadavedo-Enero (respondent), the City Prosecutor of Dipolog City, for approving the resolution finding probable cause against complainant and two of her co-accused for the crime of falsification of public document under Article 171 of the Revised Penal Code.

Complainant alleges that she and her brother, Pacifico Agustin, Jr. (Pacifico), engaged in a legal dispute in a civil case for declaration of nullity of title with damages involving a land owned by their parents.² This case was decided in complainant’s favor before the trial court and remains pending on appeal. Subsequently, complainant learned that a warrant of arrest had been issued against her in connection with a criminal action for falsification of public document instituted by Pacifico. She claims that she did not receive any subpoena or notice from the City Prosecutor requiring her to submit a counter-affidavit or any countervailing evidence. Despite this defect in procedural due process, Assistant City Prosecutor Val Angelo C. Concha proceeded to resolve the complaint and found probable cause against complainant. Said resolution was thereafter approved by herein respondent as City Prosecutor.³

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* Also Herminia C. Enero in some parts of the *rollo*.

¹ See Verified Disbarment Complaint/Letter-Affidavit (under Rules 138 & 139 B, Revised Rules of Court) dated November 24, 2020, *rollo*, pp. 2-7.

² See Decision dated March 7, 2018 of the Regional Trial Court of Dipolog City, Branch 8 in Civil Case No. 6953, penned by Judge Ric S. Bastasa, *id.* at 8-17.

³ See *rollo*, pp. 2-4.

Complainant further alleges that respondent should have inhibited from the case because Pacifico is married to her niece and, therefore, they are related by affinity. At the same time, respondent is the mother of one of the witnesses in the subject criminal case. As such, complainant argues that respondent violated Canon 1,⁴ Rules 1.01⁵ and 1.02,⁶ and Canon 6,⁷ Rules 6.01⁸ and 6.02⁹ of the Code of Professional Responsibility when she did not voluntarily inhibit from the case so she could advance and protect the interests of her relatives.¹⁰

The Court dismisses the instant complaint outright for lack of jurisdiction.

The Court, in *Alicias v. Macatangay*¹¹ (*Alicias*) and *Trovela v. Robles*¹² (*Trovela*), has laid down the rule that the accountability of lawyers performing or discharging their official duties as lawyers of the Government is always to be differentiated from their accountability as members of the Philippine Bar. The subject of the complaint in *Trovela* arose from the performance or discharge by the respondents therein of their official duties as prosecutors of the Department of Justice. Reiterating *Alicias*, the Court in *Trovela* held that the authority to discipline the respondent prosecutors rests with their superior, the Secretary of Justice, while in the case of then Secretary of Justice Leila M. De Lima (who was also a respondent), the President; and in both cases, the authority may also pertain to the Office of the Ombudsman.¹³ Thus, the Court held that the Integrated Bar of the Philippines (IBP) has no jurisdiction to investigate government lawyers charged with administrative offenses involving the performance of their official duties.

Similarly, in this case, the allegations in the complaint arose from the performance or discharge of official duties by respondent as

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⁴ CANON 1 — A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and for legal processes.

⁵ Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

⁶ Rule 1.02 — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

⁷ CANON 6 — These canons shall apply to lawyers in government service in the discharge of their official tasks.

⁸ Rule 6.01 — The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done. The suppression of facts or the concealment of witnesses capable of establishing the innocence of the accused is highly reprehensible and is cause for disciplinary action.

⁹ Rule 6.02 — A lawyer in the government service shall not use his public position to promote or advance his private interests, nor allow the latter to interfere with his public duties.

¹⁰ *Rollo*, pp. 4-6.

¹¹ A.C. No. 7478, January 11, 2017, 814 SCRA 96.

¹² A.C. No. 11550, June 4, 2018, 864 SCRA 1.

¹³ *Apurillo v. Bermejo*, A.C. No. 12688, January 20, 2020 (Unsigned Resolution).

the City Prosecutor of Dipolog City, considering that these allegations revolve around her approval of a resolution in a preliminary investigation against complainant. Following *Trovela*, therefore, the authority to discipline respondent is lodged with her superior, the Secretary of Justice or with the Office of the Ombudsman, which similarly exercises disciplinary jurisdiction over prosecutors as public officials pursuant to Section 15, paragraph 1 of Republic Act No. (RA) 6770,¹⁴ to wit:

Section 15. *Powers, Function and Duties.* – The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.

The power of the Office of the Ombudsman provided in Section 15 of RA 6770 is, in turn, lifted from Article XI, Section 13, paragraph (1) of the 1987 Constitution. Thus, in *Alicias*, the Court held that the Office of the Ombudsman is the government agency responsible for enforcing administrative, civil, and criminal liability of government officials “in every case where the evidence warrants in order to **promote efficient service by the Government to the people.**”¹⁵ The Court went on to elaborate that the jurisdiction of the Ombudsman encompasses **all kinds of malfeasance, misfeasance, and non-feasance** committed by any public officer or employee during his or her tenure. Consequently, acts or omissions of public officials relating to the performance of their functions as government officials are within the administrative disciplinary jurisdiction of the Office of the Ombudsman and not with the IBP.¹⁶

WHEREFORE, the administrative complaint against Atty. Herminia Cadavedo-Enero is **DISMISSED** for lack of jurisdiction on the part of the Integrated Bar of the Philippines.

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¹⁴ OMBUDSMAN ACT of 1989.

¹⁵ *Alicias v. Macatangay*, supra note 11, at 102. Emphasis in the original.

¹⁶ *Id.* at 102-103.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gr711*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Ms. Sonnie F. Agustin-Laplap
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1605 Pasig City

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